

DECISION – WALPOLE BOARD OF APPEALS CASE NO. 08-17

APPLICANT: Cellco Partnership d/b/a Verizon Wireless

LOCATION OF PROPERTY INVOLVED:

Utility Pole No. 90S (approx. 731-733 Washington St.) & Utility Pole No. 33.8 (approx. 348 Washington St.)

APPLICATION

A **Special Permit** under Section 10-F of the Zoning Bylaw to allow the installation of a wireless facility consisting of a 15.1" x 24.2" tall cylindrical canister antenna, remote radio head, electrical junction box and meter, and fiber optic and power connection.

On April 19, 2017, a Public Hearing was held in the Main Meeting Room of Town Hall for the purpose of receiving information and voting upon a Decision as to the granting of a **Special Permit** request. Said public hearing was closed and voted on April 19, 2017.

The following members were present and voting:

Matthew Zuker, Chairman
James S. DeCelle, Vice Chairman
Susanne Murphy
Mary-Jane Coffey
Robert Fitzgerald, Associate Member

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VOTE OF THE BOARD

A motion was made by Mr. DeCelle and seconded by Ms. Murphy to grant the Special Permit request under Section 10-F of the Zoning Bylaws to allow the construction of a wireless communications facility, consisting of a 15.1" x 24.2" tall cylindrical canister antenna, remote radio head, electrical junction box and meter, and fiber optic and power connection at the specified locations, with conditions.

The vote was 5-0-0 in favor (Zuker, DeCelle, Murphy, Coffey and Fitzgerald voting), therefore the request for a Special Permit is hereby granted subject to the following conditions:

1. Under Section 10-F.7. of the Zoning bylaw, the Applicant shall assume financial surety for the decommissioning of the tower.
2. The Applicant shall work with the Town in locating a repeater system and/or antenna at this location to enhance Public Safety Communications System, if it is determined the need is there or if the need arises.
3. The Applicant will provide each of the Walpole Fire Departments' four groups with training and site familiarization.
4. Access shall accommodate Walpole Fire Department apparatus.
5. Regular/routine maintenance shall be done on site, as agreed to by the Applicant.
6. The construction of the communication site shall be built as shown on plan.
7. The Applicant will comply with the Town Engineers recommendations as per her letter dated April 4, 2017.

REASONS FOR DECISION

1. The Applicant demonstrated there is a need for this wireless facility at this location.
2. The granting of the Special Permit conforms to the criteria set forth in Section 10-F and the applicable subsections of the Town of Walpole Zoning Bylaw.
3. The Board finds that this project is in harmony with the general purpose and intent of this Bylaw and the Board's regulations. The Board makes the following findings:
 - (a) That the Applicant is not already providing adequate coverage or is unable to maintain adequate coverage without the Special Permit;
 - (b) That the Applicant is not able to use existing facility sites either with or without the use of repeaters to provide adequate coverage;
 - (c) That the proposed wireless service that has the appearance of a transformer on an existing pole facility minimizes any adverse impact on historic resources, scenic views, residential property values, and natural or manmade resources;
 - (d) That the Applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the facilities;
 - (e) That the facility shall comply with the appropriate FCC regulations regarding emissions of electromagnetic radiation and that the required monitoring program is in place and shall be paid for by the Applicant.

This Decision is consistent with purpose and intent of the Walpole Zoning Bylaw. This Decision is limited to the relief expressly granted hereunder.

Said Special Permit is granted pursuant to Massachusetts General Laws c. 40A, s.9 which provides in pertinent part as follows:

"...special permits granted under this section shall lapse within a specified period of time, not more than two years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause."

Massachusetts General Laws c. 40A, s. 11. provides in pertinent part as follows:

"A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the city or town clerk that 20 days have elapsed after the decision has been filed in the office of the city or town clerk and either that no appeal has been filed or the appeal has been filed within such time, or if it is a special permit which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit-accompanied by the certification of the city or town clerk stating the fact that the permit granting authority or special permit granting authority failed to act within the time prescribed, and whether or not an appeal has been filed within that time, and that the grant of the application

resulting from the failure to act has become final, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This section shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the 6 month periods provided under the second paragraph of section 6. The fee for recording or registering shall be paid by the owner or applicant."

APPEALS FROM THIS DECISION FOR A SPECIAL PERMIT, IF ANY, SHALL BE MADE PURSUANT TO MASSACHUSETTS GENERAL LAWS CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.

This Decision was made on April 19, 2017 and filed with the Town Clerk on May 1, 2017.

WALPOLE ZONING BOARD OF APPEALS


Matthew Zuker, Chairman

MZ/am

cc:	Town Clerk	Engineering	Planning Board	Abutters
	Board of Selectmen	Building Inspector	Conservation Commission	Applicant